

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**JAMAR J. DRAPER,**

**Petitioner,**

**v.**

**JIMMY MARTIN, Warden,**

**Respondent.**

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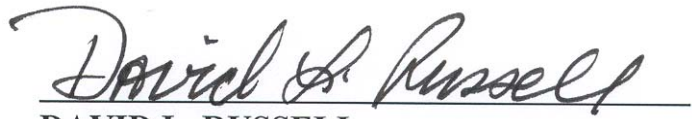
**Case No. CIV-18-1195-R**

**ORDER**

Before this Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Gary M. Purcell, entered on April 2, 2019 (Doc. 17). No objection to the Report and Recommendation has been filed nor has an extension of time in which to object been sought or granted. In his R&R, Judge Purcell recommended that Respondent’s motion to dismiss (Doc. 12) be granted on the basis that Petitioner filed a mixed petition of exhausted and unexhausted claims. *See* Doc. 17, at 1, 12. However, Judge Purcell recommended that, should Petitioner move to file an amended petition raising only exhausted claims, the Court should grant the motion. *See id.* at 12. Petitioner did not *move* to file an amended petition; rather, he simply filed one on April 15, 2019. *See* Doc. 18. While such filing without the Court’s permission was improper, the Court, considering Judge Purcell’s recommendation, treats this amended petition as properly filed.

Accordingly, the R&R is adopted, and this matter is re-referred to Judge Purcell for further proceedings.

IT IS SO ORDERED this 29th day of April, 2019.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE